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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/819,133	03/27/2001	Randall A. Russell	RUS001-461611.1	3821
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ANDREWS & KURTH, L.L.P. 600 TRAVIS, SUITE 4200 HOUSTON, TX 77002			HAQ, NAEEM U	
			ART UNIT	PAPER NUMBER
			3625	

DATE MAILED: 01/27/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/819,133

Applicant(s)

RUSSELL, RANDALL A.

Examiner

Naeem Haq

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 November 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 19-34 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 19-34 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 March 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ✓ 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Response to Amendment

This action is in response to the Applicant's amendment filed on November 10, 2005. Claims 1-18 have been cancelled. New claims 19-34 have been entered and will be considered for examination.

The rejection of claims 3-6, 8-10, and 18 under 35 U.S.C. 112, second paragraph has been withdrawn in light of Applicant's amendment.

Drawings

Figures 3 and 4 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. These figures show a computer system with a database and software components. Furthermore, the Applicant admits that Figures 3 and 4 are prior art (see specification page 13, lines 16-19). See MPEP § 608.02(g). Corrected drawings in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.121(d)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the Examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Objections

Claim 19 is objected to because of the following informalities: step (q) recites the limitation "...a educational institution..." This limitation should be written as "...an educational institution..." Appropriate correction is required.

Specification

The amendment filed November 10, 2005 is objected to under 35 U.S.C. 132(a) because it introduces new matter into the disclosure. 35 U.S.C. 132(a) states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows:

Claim 19 recites the steps of conducting student transactions at both an educational institution and at a vendor. The Applicant's specification does not disclose an embodiment where student transactions are conducted at both an educational institution and a vendor.

Applicant is required to cancel the new matter in the reply to this Office Action.

Final Rejection

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

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Claims 19-34 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Claim 19 recites the steps of conducting student transactions at both an educational institution and at a vendor. The Applicant's specification does not disclose an embodiment where student transactions are conducted at both an educational institution and a vendor. For this reason, claim 19 lacks proper written description support.

Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 19-21, 23-25, 27-34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lotvin et al. (US 5,907,831) hereafter referred to as "Lotvin" in view of Hager et al. (US 2001/0051901 A1) hereafter referred to as "Hager".

Referring to claim 19: Lotvin discloses a school commerce system comprising:

- an electronic network (col. 1, lines 44-45);
- a central controller operatively coupled to said electronic network (Abstract; col. 1, lines 44-62);
- software residing in and adapted for execution by said central controller, said software designed and arranged for

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(a) establishing a student account for a student by a parent of said student (col. 8, lines 42-51);

(b) establishing a vendor account for vendor (col. 16, line 66 – col.17, line 17; Figure 12A, item “25”). The examiner notes that figure 25 discloses an E-R Diagram that includes a plurality of vendors. Thus the database of the central controller has vendor account information.

(c) establishing an educational institution account for an educational institution (col. 3, lines 31-45);

(d) allowing access over said electronic network to said central controller by said parent (col. 8, lines 42-51);

(e) receiving a first input by said parent of first information about said student including a student identification number and student password, about how said student account is to be funded from a third party parent financial institution by said parent, about spending restrictions to said vendor which are imposed on said account by said parent, and about restrictions to said educational institution which are imposed on said account by said parent (col. 3, lines 31-45; column 5, line 64 – column 6, line 5; column 8, lines 42-60; column 9, lines 22-30; column 14, lines 9-27);

(f) populating said student account with said first input (col. 14, lines 9-27; Figure 7, item “703”);

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(g) transferring funds from said third party parent financial institution into said student account according only to said first information (col. 5, line 64 – col. 6, line 5);

(j) verifying the availability of funds in said student account sufficient to cover purchase amount (col. 13, lines 37-53; col. 15, lines 2-15);

(k) verifying an absence of said spending restrictions to said vendor (col. 13, lines 37-53; col. 14, lines 9-27);

(l) transferring said purchase amount of funds from said student account to a vendor account of said vendor (col. 13, line 37 – col. 14, line 8);

(m) allowing access to said central controller by said education institution (col. 3, lines 31-45);

(n) receiving a third input by said student at said educational institution over said electronic network of third information including said student identification number, said student password and a second purchase amount (col. 3, lines 31-45; column 5, line 64 – column 6, line 5; column 8, lines 42-60; column 9, lines 22-30; column 14, lines 9-27);

(o) verifying the availability of funds in said student account sufficient to cover said second purchase amount (col. 13, lines 37-53; col. 15, lines 2-15);

(p) verifying an absence of said spending restrictions to said educational institution (col. 13, lines 37-53; col. 14, lines 9-27);

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(q) transferring said second purchase amount of funds from said student account to an educational institution account of said educational institution (col. 3, lines 31-45; col. 13, line 37 – col. 14, line 8);

Lotvin does not teach allowing the student to access to his or her account at a vendor and conducting a transaction at a vendor. However, Hager discloses a consumer shopping tool that allows users to access their account information and conduct a transaction from a kiosk located within a vendor store (paragraph [0029]). Therefore it would have been obvious to one of ordinary skill in the art, at the time the invention was made, to incorporate the teachings of Hager into the system of Lotvin. One of ordinary skill in the art would have been motivated to do so in order to allow a user to access their account from a remote location as taught by Hager.

Referring to claim 20: The cited prior art teaches or suggests all the limitations of claim 19 as noted above. Furthermore, Lotvin teaches that the software is arranged and designed for establishing over said electronic network by a parent of a plurality of students a common student account at said central controller for said plurality of students (column 7, lines 48-53).

Referring to claim 21: The cited prior art teaches or suggests all the limitations of claim 19 as noted above. Furthermore, Lotvin teaches the software is arranged and designed for prohibiting a transaction with said vendor based on said spending restrictions to said vendor (column 13, lines 37-53; column 14, lines 9-27).

Referring to claim 23: The cited prior art teaches or suggests all the limitations of claim 19 as noted above. Furthermore, Lotvin teaches the software is arranged and

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designed for determining a student balance and transaction history of the student account and for allowing access over the electronic network by the parent to the student balance and transaction history (column 8, line 61 – column 9, line 20).

Referring to claim 24: The cited prior art teaches or suggests all the limitations of claim 19 as noted above. Furthermore, Lotvin teaches the software is arranged and designed for monitoring said student account for an abnormal student account activity, and for notifying said parent of said abnormal student account activity (column 5, lines 20-28; column 15, lines 12-15).

Referring to claim 25: The cited prior art teaches or suggests all the limitations of claim 19 as noted above. Furthermore, Lotvin teaches the software is arranged and designed for transferring funds from said vendor account to a third party vendor financial institution (column 13, line 54 – column 14, line 8).

Referring to claims 27 and 28: The cited prior art teaches or suggests all the limitations of claim 19 as noted above. Furthermore, Lotvin teaches the software is arranged and designed for informing a parent about a school event based on a student account (col. 8, line 61 – col. 9, line 20).

Referring to claim 29: The cited prior art teaches or suggests all the limitations of claim 19 as noted above. Furthermore, Lotvin teaches the software is arranged and designed for storing data in an information database (col. 14, lines 9-27; Figure 7, item "703"). The cited prior art does not teach that the data is associated with each school of a plurality of schools in a school district. However, the Examiner notes that this limitation is not functionally or structurally involved in the elements of the recited system.

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Therefore this limitation is deemed to be nonfunctional descriptive material. The structural elements of the Applicant's system would be the same regardless of the type of information stored in the database. The difference between the Applicant's system and the prior art is merely subjective. Thus this nonfunctional descriptive material will not distinguish the claimed invention from the prior art in terms of patentability, see *In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983); *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994) also see MPEP 2106. Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to store any information in the database of the cited prior art because this information does not functionally or structurally relate to the elements of the claimed system and because the subjective interpretation of this information does not patentably distinguish the claimed invention.

Referring to claims 30-33: The cited prior art teaches or suggests all the limitations of claim 29 as noted above. Furthermore, Lotvin teaches that the software is arranged and designed for receiving a fifth input of statistical information and for allowing access to said statistical information by an authorized entity (col. 8, line 61 – col. 9, line 20). The cited prior art does not teach that the database is accessible by a school trustee or government agency. However, the Examiner notes that this limitation is not functionally involved in the elements of the recited system. Therefore this limitation is deemed to be nonfunctional descriptive material. The structural elements of the Applicant's system would be the same regardless of who was allowed access the system. The differences between the Applicant's system and the prior art are merely

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subjective. Thus this nonfunctional descriptive material will not distinguish the claimed invention from the prior art in terms of patentability, see *In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983); *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994) also see MPEP 2106. Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to have a system that was accessible by anyone because this feature does not functionally or structurally relate to the elements of the claimed system and because the subjective interpretation of this feature does not patentably distinguish the claimed invention.

Referring to claim 34: The cited prior art teaches or suggests all the limitations of claim 32 as noted above. Furthermore, Lotvin teaches that the software is arranged and designed for allowing access to said statistical information by said parent (col. 8, line 61 – col. 9, line 20).

Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lotvin et al. (US 5,907,831) hereafter referred to as “Lotvin” in view of Hager et al. (US 2001/0051901 A1) hereafter referred to as “Hager” and further in view of D’Urso et al. (US 5,353,335) hereafter referred to as “D’Urso”.

Referring to claim 22: The cited prior art teaches or suggests all the limitations of claim 19 as noted above. The cited prior art does not teach monitoring a student account to determine if a minimum balance of funds is present in the student account and notifying a parent if the minimum balance of funds is not present in the student account. However, D’Urso teaches monitoring an account to determine if a minimum balance of funds is present in the account and notifying the user if the minimum balance

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of funds is not present in the account (col. 14, line 65 – col. 15, line 2). Therefore it would have been obvious to one of ordinary skill in the art, at the time the invention was made, to incorporate the teachings of D'Urso into the system of the cited prior art. One of ordinary skill in the art would have been motivated to do so in order to prevent a user from drawing their account below a preset minimum balance as taught by D'Urso.

Claim 26 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lotvin et al. (US 5,907,831) hereafter referred to as "Lotvin" in view of Hager et al. (US 2001/0051901 A1) hereafter referred to as "Hager" and further in view of Official Notice.

Referring to claim 26: The cited prior art teaches or suggests all the limitations of claim 19 as noted above. The cited prior art does not teach the software is arranged and designed for determining a vendor account balance and transaction history of said vendor account and for allowing access over said electronic network by said vendor to said vendor balance and transaction history. However, Official Notice is taken that it is old and well known in the art to determine a vendor account balance and transaction history and for allowing a vendor to access a vendor account balance and transaction history over an electronic network. Therefore it would have been obvious to one of ordinary skill in the art, at the time the invention was made, to incorporate this feature into the invention of the cited prior art. One of ordinary skill in the art would have been motivated to do so in order to allow a vendor to control and view its account online.

Response to Arguments

The following is in response to the arguments filed on November 10, 2005.

Applicant's arguments with respect to the objection of figures 3 and 4 have been fully considered but they are not persuasive. The Applicant has argued that the central controller and connection thereto are not prior art. The examiner respectfully disagrees and cites US Patent 5,862,223 to Walker et al. ("Walker"). Figure 5 of this reference discloses substantially the same system as disclosed by the Applicant in Figures 3 and 4 of the current application. For this reason, the examiner maintains the objection to the drawings.

Applicant's arguments with respect to claims 19-34 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

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extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Naeem Haq whose telephone number is (571)-272-6758. The examiner can normally be reached on M-F 8:00am-5:00pm.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wynn W. Coggins can be reached on (571)-272-7159. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Naeem Haq, Patent Examiner
Art Unit 3625

January 13, 2006



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